

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUN 21 2001

By: JAMES W. McCORMACK, CLERK
DEP. CLERK

ELLIS FOSTER, INDIVIDUALLY AND ON
BEHALF OF THE ESTATE OF EDDIE BAGBY, JR.

PLAINTIFFS

V.

NO. 4:99CV733 JWC

LARRY NORRIS, ET AL

DEFENDANTS

JOY CANADY, AS NATURAL PARENT AND
NEXT FRIEND OF EDDIE LYNN DESHAUN
RODERICK JEMEAL BAGBY, A MINOR

INTERVENOR

PLAINTIFF'S SUPPLEMENTATION TO BRIEF IN RESPONSE
TO MOTION FOR ATTORNEY'S FEES

Comes now the Plaintiff and supplements the Brief filed in Response to Motion
for Attorney's Fees with the attached case:

The Lowber Hendricks Law Firm, P.A. v. Terry L. Scott, Appellee, CA99-118, 1999 Ark.
App. LEXIS 659, (Ark. App. 1999). In this case, the Court held that the attorney was
fired for cause and was not entitled to an attorney's lien under Ark. Code Ann. 16-22-
301 and 16-22-304 and that the attorney was not entitled to a contractual lien because
the attorney did not negotiate the settlement which was a prerequisite for a contractual
lien in a contingency fee agreement. Therefore, the Court held the attorney was not
entitled to any of the proceeds in this matter for attorney fees.

The Court also stated factors that are grounds for termination for cause which
included the attorney's lack of understanding of the client's wishes, poor communication,
an adversarial attitude and possible misrepresentation. All of these grounds were
present in the Affidavit of Hattie Bagby filed with this Court.

The Affidavit of Hattie Bagby clearly shows that Willard Proctor was fired for

cause and Mr. Proctor never obtained a written offer of settlement in the Eddie Bagby case. Therefore, according to the Court's reasoning in Lowber an argument could be made that Mr. Proctor is not entitled to any attorney fees from the proceeds.

Respectfully submitted,



Ralph M. Cloar, Jr. #74024
Attorney for the Plaintiff
Prospect Building, Suite 640
1501 North University Avenue
Little Rock, AR 72207-5235
501-378-0106 fax:501-666-6822

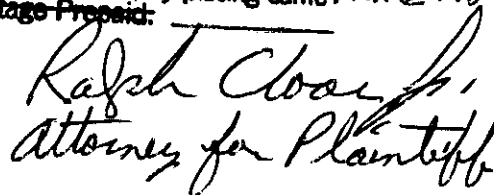
and

Timothy A. Rowe
Attorney for the Plaintiff
22 East Washington Street, Suite 600
Indianapolis, IN 46204
317-632-2524

CERTIFICATION OF SERVICE

I, hereby certify that on this 20th day of June, 2001
a copy of the foregoing was served upon

MARK CEVERETT, Attorney at Law,
by placing same FAX @ 978-5775
in the U.S. Mail Postage Prepaid:



Attorney for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

*Exhibits Attached
to Original
Document in
Court's Case File*